

## Part I

### Section 170.—Charitable, etc., Contributions and Gifts

26 CFR 1.170A-1: Charitable, etc., contributions and gifts; allowance of deduction.

Rev. Rul. 2002-67

#### ISSUES

(1) For purposes of § 170 of the Internal Revenue Code, may a donor's transfer of a car to a charity's authorized agent be treated as a transfer to the charity?

(2) May the contemporaneous written acknowledgment required by § 170(f)(8) be provided to the donor by the charity's authorized agent?

(3) May a donor use an established used car pricing guide to determine the value of a car donated to a charity?

#### FACTS

*Situation 1.* Q is a charitable organization described in § 170(c)(2). Q is located in, and conducts its activities in, State A.

X is a for-profit entity located and licensed to sell cars in State A. Pursuant to a written agreement, Q and X establish an agency relationship that is valid under the applicable law of State A. The agreement provides that X, acting as Q's authorized

agent, will administer a fund-raising <sup>2</sup> program for Q in exchange for a fee. X's activities under the agreement are subject to Q's review and approval.

The agreement provides that X will act on Q's behalf to (1) solicit donations of used cars, (2) accept, process, and sell the cars, (3) transfer the proceeds of the sales to Q, less X's fee, and (4) provide each donor with substantiation of that donor's contribution, including an acknowledgment that contains the information required by § 170(f)(8)(B).

To assist Q in furthering its charitable purposes, B, an individual who itemizes federal income tax deductions, transfers a used car to X as Q's authorized agent. B does not receive anything of value in exchange for the car. B consults an established used car pricing guide, which lists \$4,500 as the current sales price for a car of the same make, model, and year as B's car and sold in B's area, if the car is in excellent condition. The guide lists \$3,000 as the current sales price for such a car if it is in average condition. The guide does not provide a sales price for a car that is in poor condition.

The guide states that a car is in excellent condition if it has no defects; in average condition if it has some defects, but is safe to drive; and in poor condition if it needs substantial mechanical or body repairs, or is unsafe to drive. B's car is in average condition.

*Situation 2.* The facts are the same as in *Situation 1*, except that B's car is in poor condition.

## LAW AND ANALYSIS

### *Issue (1)*

Section 170(a)(1) allows as a deduction, subject to certain limitations and

restrictions, any charitable contribution (as defined in § 170(c)), payment of which is made within the taxable year. Section 170(c) defines charitable contribution, in part, as a contribution to or for the use of an entity described in § 170(c)(2).

It is well established that a charity may receive contributions through its authorized agent. See, e.g., § 1.170A-1(b) of the Income Tax Regulations; Rev. Rul. 85-184, 1985-2 C.B. 84. Because Q and X have established a valid agency relationship under the law of State A, X has the authority to act on Q's behalf according to the terms of their agency agreement. Thus, for purposes of § 170, B's transfer of the car to X as Q's authorized agent is treated as a transfer to Q. The determination of whether an agency relationship exists is based upon the requirements of state law. Not all contractual relationships will result in an agency relationship under state law.

#### *Issue (2)*

Section 170(f)(8)(A) provides that no deduction is allowed under § 170(a) for any contribution of \$250 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of § 170(f)(8)(B).

Because X is authorized by Q to act as Q's agent in administering Q's fund-raising program, a written acknowledgment provided to B by X will satisfy the requirement of § 170(f)(8)(A) that the acknowledgment be made by the donee organization.

#### *Issue (3)*

Section 1.170A-1(c)(1) provides that if a charitable contribution is made in property other than money, the amount of the contribution is the fair market value of the property at the time of the contribution.

Section 1.170A-1(c)(2) states that fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell, and both having reasonable knowledge of relevant facts. The quantity in which property is donated is a factor in determining fair market value. See, e.g., Rev. Rul. 80-233, 1980-2 C.B. 69 (the best evidence of fair market value of bibles is the price at which similar quantities of bibles were sold in arms'-length transactions at the time of the contribution).

The fair market value of a car is the price at which the car would change hands between a willing buyer and a willing seller. There is no single correct way to determine fair market value of a car; any reasonable method may be used.

One method of determining fair market value of a single donated car is by reference to an established used car pricing guide. However, a used car pricing guide establishes fair market value only if the guide lists the sales price for a car that is the same make, model, and year, sold in the same area, and in the same condition, as the donated car.

*Situation 1.* The established used car pricing guide lists \$3,000 as the current sales price for a car that is the same make, model, and year as B's car, sold in the same area, and in the same condition (i.e., average). Therefore, the fair market value of B's car, and the amount treated as a charitable contribution under § 170, is \$3,000. B also could have determined the value of the car by any other reasonable method.

*Situation 2.* The established used car pricing guide does not list a sales price for a car of the same make, model, and year as B's car, sold in the same area, and in the same condition (i.e., poor). Because the guide does not provide a value for a car in poor condition, the guide does not establish the fair market value of B's car. B must establish

the fair market value of the car using some other method that is reasonable under the circumstances.

## INFORMATION REPORTING

For information regarding a charity's obligation to report amounts paid and received in connection with fund-raising programs, see Instructions for Form 990 and Announcement 2002-87, 2002-39 I.R.B. 624.

## HOLDINGS

(1) For purposes of § 170, a donor's transfer of a car to a charity's authorized agent may be treated as a transfer to the charity.

(2) The contemporaneous written acknowledgment required by § 170(f)(8) may be provided to the donor by the charity's authorized agent.

(3) A donor may use an established used car pricing guide to determine the fair market value of a single donated car if the guide lists a sales price for a car that is the same make, model, and year, sold in the same area, and in the same condition, as the donated car. However, a donor may not use an established used car pricing guide to determine the fair market value of a single donated car if the guide does not list a sales price for a car in the same condition as the donated car. In such a case, the donor must use some other method that is reasonable under the circumstances to determine the value of the car. See Publication 561, "Determining the Value of Donated Property."

## DRAFTING INFORMATION

The principal author of this revenue ruling is Patricia Zweibel of the Office of the Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue ruling contact Ms. Zweibel on (202) 622-5020 (not a toll-free call).